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ABSTRACT

This publication is intended to help women in Alaska learn about their legal rights. Some of the information is of a general nature and will be of interest to women in other states. Some of the laws and resources are relevant to Alaska only. The publication can serve as a model to other states wanting to develop a resource to inform women about their legal rights. The law concerning women's rights is not just one rule written in the law books. It is a combination of constitutional provisions, court decisions, laws passed by the state, federal, and local legislators, and regulations passed by government agencies. All of these are discussed in the publication concerning the following topics: employment; credit; criminal law and violence against women; inheritance; names, name changes, and birth certificates; involuntary commitment; adoption; childbearing decisions; parent and child; marriage and marriage-type partnerships; divorce and dissolution; and public assistance. The publication concludes with a glossary of legal definitions and a resource directory. (RM)

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WOMEN'S LEGAL RIGHTS IN ALASKA

Alaska Commission on the Status of Women

SO 014 099

The **Alaska Commission on the Status of Women** contracted with attorneys, **Sue Ellen Tatter** and **Sandra K. Saville** in September, 1980, to write this legal rights handbook for Alaska's women.

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This handbook is an **overview** and **general introduction.**
It is not intended to substitute for individual legal advice.

Additional copies are available upon request:

Alaska Commission on
the Status of Women
338 Denali Street, Suite 850
Anchorage, AK 99501

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In Alaska, women have the legal right to be treated equally with men. In practice women face problems obtaining that right: they may have difficulty obtaining construction work because of their sex; they may be unable to collect support from former husbands; they may not obtain a fair property settlement when breaking up a non-marital relationship; or they may have trouble renting an apartment because they have small children.

This booklet outlines legal rights affecting women in various areas; however, the law can change swiftly. You should always consult a lawyer, if possible.

Sources of Your Rights

The *law* concerning your rights is not just one rule written in the law books. It is a combination of constitutional provisions, court decisions, laws passed by state, federal and local legislators, and regulations passed by government agencies.

Constitutions

Even though the Equal Rights Amendment of the federal Constitution has not yet passed, the *Alaska* Constitution states: "No person is to be denied the enjoyment of any civil or political right because of race, color, creed, *sex*, or national origin."

Laws

The *law* includes statutes passed by Congress and the state legislature, regulations passed by federal agencies, and executive orders enacted by presidents. An example is the federal civil rights law which includes laws against employment discrimination. Another example is the state law saying what happens to your property when you die.

Court Decisions

Courts have interpreted these federal and state laws, regulations and constitutions in individual *cases*. The courts write out their decisions. They are published in books kept in state law libraries. You can read statutes, constitutional provisions, or cases yourself if there is a state law library in your area. Ask the librarian for assistance.

Practical Problems in Enforcing Your Rights

There is an old saying in the law that "there is no right without a remedy." In other words, your legal rights may not be useful to you unless you can exercise them.

Getting a Lawyer

The first problem may be getting legal help. If you are poor, you may qualify

for free help from Alaska Legal Services. Unfortunately, there is a long waiting list for legal services, and many people do not qualify. Check whether you or a relative is entitled to legal help through any union benefit plan.

Locating the right attorney can be a problem. If you know an attorney, ask her to recommend someone who does the type of case you have, or ask a friend who has had a similar case if she would recommend the attorney she used. The Alaska Bar Association operates a free referral service in Anchorage. [Lawyer Referral, telephone 272-0351.] It will give you the names of three attorneys who accept cases in your area and who guarantee to charge a set fee for the first appointment.

Getting Legal Fees Later

Even if you have no legal benefits or money, you should still consult a lawyer. Ask the lawyer if he or she will take the case for future court-ordered attorney's fees or under a particular agreement. The attorney you have chosen may be willing to wait for a fee at the end of the case if you can help pay costs along the way.

Some laws, such as the federal Equal Employment Opportunity Act, provide for an award of attorney's fees. Also, in Alaska, a husband may be required to give his wife money for attorney's fees for a divorce. [AS 9.55.200]. Finally, the Alaska courts give the winning party part of their attorney's fees. [Civil Rule 82].

Problems With the Courts

Even if you can find an attorney you can afford, and get to court, you still may not win your rights. Courts are not perfect — some judges are biased, some cases are hard to prove. You may lose your case or feel the expense of a lawsuit is not worth the possible benefits.

The law of sex discrimination is changing rapidly and this change comes partly because women keep pressuring for their rights in lawsuits.

Civil and Criminal Law

Sometimes there is confusion between *civil* law, where persons or institutions sue each other, and *criminal* law, where the government prosecutes someone. *Civil* cases result in damages or a determination of each party's rights. *Criminal* cases result in money fines, probation or jail sentences. Some actions involve both civil and criminal law. A woman who is raped can ask the police and district attorney to prosecute the rapist criminally. She can also sue the rapist civilly for money.

Federal and State Law

Federal law involves constitutional guarantees and statutes. The federal statutes do not usually govern family life. The federal government generally leaves the areas of *inheritance, divorce, parent and child relationships, real property, names and name change,* and *juvenile delinquency* to the state. Unless your federal constitutional rights are involved, the United States Supreme Court will not hear your case.

State laws vary. This is particularly true concerning marriage and family life. Do not assume that the law of another state applies in Alaska.

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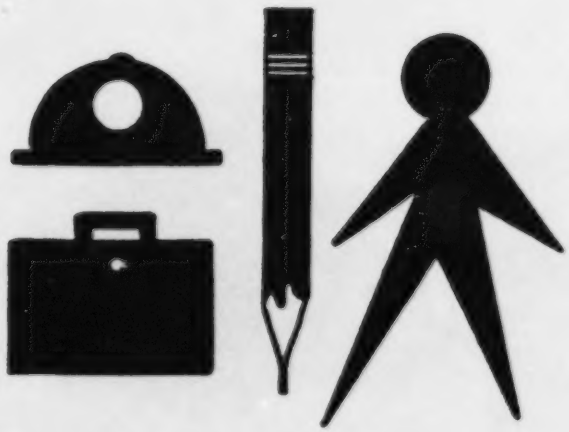
Employment discrimination occurs when an employer uses wrong standards in hiring, firing, paying wages, promoting, assigning work or awarding benefits. An employer *may* discriminate on some other basis, such as educational level or job experience. She or he *may not* discriminate on the basis of age, sex, race, marital status, or pregnancy. So far, it is legal to discriminate based on sexual preference in Alaska.

I. Employment



What is Employment Discrimination?

A preliminary case of employment discrimination is what you have to show before a court or commission will make the employer answer your charges. You must show:

(1) That you belong to a group protected by the law (women, minority members, elderly, etc.);

(2) that you have applied for a job that the employer wanted filled, and that you were qualified for it;

(3) that the employer rejected you; and

(4) that the employer still looked for other people for the job.

[McDonnel Douglas Corp. v. Green, 411 U.S. 796, 802 (1973); *Alaska Human Rights Comm'n. v. Yellow Cab*, 611 P.2d 487 (Ak. 1980)].

If you do show that these four elements exist in your case, the employer must then show she or he acted legally.

You should have the four elements when you begin; but sometimes it is hard to get the facts. If you file a complaint with the state Human Rights Commission, an investigator will be assigned to your case. The investigator will help you find the required elements.

Do not be discouraged if an employer says you are *unqualified*. The qualifications cannot be so vague that they work against women or other minority members. The qualifications should be definite — such as education, experience, or particular skills.

Enforcement of Anti-Discrimination Laws

Agencies to Help You

The federal and state governments both have laws against sex discrimination in employment. Some municipalities may also have equal rights ordinances. The federal government set up the *Equal Employment Opportunity Commission*. The state has the *Human Rights Commission*. There may also be a municipal commission in your town. You should go first to these agencies. In fact, you *must* go first to the state agency before the federal agency or federal courts will hear your case. If you lose at either agency, you may consider court action.

Wage Claims Only

If you have a simple problem involving unequal wages only, you may go to the federal Equal Employment Opportunity Commission. It administers the federal Equal Pay Act. [29 U.S.C.706(d)].

The Human Rights Commission administers the state Equal Pay Act. [AS 18.80.220(a)(5)]. You can complain to this agency if you do not receive the same pay as a man for comparable work.

You can sue for unequal wages even without going to these agencies. If you have a more complex problem involving discrimination in hiring, firing, benefits, or conditions of employment, you should be aware of the various state and federal laws, and court interpretations of them.

Title VII — Federal Laws Protecting Women Workers

The federal laws forming Title VII of the Civil Rights Act of 1964 [42 U.S.C.2000(e) *et seq.*] apply to employers of 15 or more people, to educational institutions, and to labor unions. One of the few exceptions is a religious institution.

Under Title VII, women must be treated equally in conditions of employment. An example of a problem that might involve Title VII would be a policy of a construction union requiring all members to be able to lift 80 pounds. This policy does not obviously discriminate against women, but few women can lift 80 pounds routinely. Title VII and the court cases require unions and employers to show that a particular requirement which discriminates is a "bona fide occupational qualification." The construction union must be able to show that lifting 80 pounds is a necessary requirement for all union members.

Title VII forbids discrimination based not just on sex, but also discrimination based on pregnancy, childbirth and related

medical conditions. [42 U.S.C. §2000(e)(k)]. The federal law now requires employee benefit and leave programs to treat pregnancy like any other medical condition. The law makes a specific exception for abortion. The employer or union need not provide health benefits for an abortion unless a full-term birth would endanger the mother's health.

Federal Procedures

Title VII procedure requires you to inform the state Human Rights Commission within 300 days of the discriminatory action. If your complaint is covered under federal law, the commission will assist you in filing a complaint with the federal Equal Employment Opportunity Commission (EEOC) in addition to filing under state law. If your complaint is only covered by federal law (and not state or local law), you must notify the commission or the EEOC within 180 days of the discrimination.

If you wish to sue in federal court, you must go to the EEOC first, and after EEOC closes your case, you have 90 days to file federal court action. Since time deadlines are figured from the date the discrimination occurred and some types of discrimination are continuing, the time periods should be discussed with a legal adviser.

If you do not have a lawyer, you can ask the federal court to appoint one for you. Title VII states that a court can award you reasonable attorney's fees.

If you win in a Title VII lawsuit, the court can order the employer to pay back pay and to rehire you, but not to pay actual losses or money damages for punishment.

State Law Protection

The Alaska state anti-discrimination law [AS 18.80.220(a)] forbids discrimination in employment because of race, religion, color, or national origin; or because of age, physical handicap, sex, marital status, pregnancy, or parenthood when the job does not require such distinctions.

The state protects against discrimination by any employer (even with only one employee), labor union, or employment agency. It does not prohibit discrimination by a non-profit club, fraternal, charitable, private educational, or religious association or corporation. [AS 18.80.300].

State Procedures

You may file a complaint with the state Human Rights Commission or sue directly in state court. [AS 18.80.100;22.10.020(c)].

If the Human Rights Commission holds a hearing, you are entitled to have its staff present the facts of your case. [See e.g., AS 18.80.110-120, 130]. At the end of the proceeding, reasonable attorney's fees may be awarded to any private party. [AS 18.80.130(e)]. This means not only that your attorney fees could be awarded to you, but also that you might have to pay the employer's attorney fees if you filed a frivolous complaint.

If you sue in state court and win, you could receive reasonable costs and attorney's fees. On the other hand, you could have to pay your opponent's fees and costs if you lose. [Civil Rule 82].

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The commission or the court can order that the discriminatory conduct cease and that you be hired. A court can order that you be given actual and punitive damages, money for emotional distress, back pay and rehire. *[Loomis Electronic Protection, Inc. v. Shaefer,* 549 P.2d 1341 (Ak.1976)]. The commission cannot make awards for emotional distress or punitive damages. *[McDaniel v. Cory* (Ak.1981)].

Retaliation

Both state and federal law prohibit bad treatment for employees who complain about discrimination. You should not be fired or demoted because you exercise your rights under the anti-discrimination laws.

Benefits

Both state and federal law guarantee equality in all areas of employment. This guarantee includes benefits. Your employer or union does not have to provide benefits, such as a pension plan. But, if the employer does provide a pension plan, it cannot treat individuals differently under the plan because of their sex.

Sexual Harassment

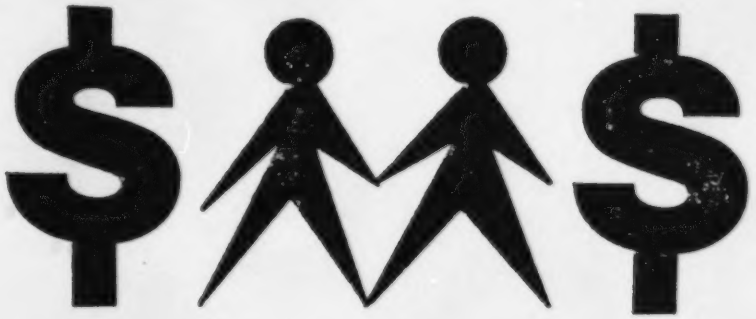
Sexual harassment may occur at work if your boss or supervisor tries to get sexual favors from you. Sexual harassment on the job is employment discrimination under the federal law. The EEOC has issued guidelines to prevent and define sexual harassment. [29 CFR Chapter XIV part 1604.11].

The legal rules about sexual harassment have been changing rapidly in the last five years. Some courts have said the harassment must be linked to a particular aspect of the job such as hiring or firing. (For example, a supervisor might say: "Sleep with me or I'll transfer you" or "Sleep with me and I'll promote you.") Other courts have said that equal treatment at work means being free of all sexual advances even if they are not connected to wages or other conditions of work. These courts would find that constant sexist remarks (unrelated to pay raises, transfers, or fringe benefits) are illegal sexual harassment on the job.

Courts also differ on this question: Is the main employer or company responsible when an individual male supervisor harasses a female employee? Harassed women want to sue the company as well as the individual to obtain more damages and to influence future behavior. Some courts feel a harassing supervisor is acting as an individual and that the company should not be responsible. Other courts, including the federal circuit court for Alaska, disagree and hold the company liable for a supervisor's conduct. *[Miller vs. Bank of America,* 600F2d 211 (9th Cir. 1979)]. Certainly if the employer knows the individual is bothering a woman and accepts the situation, the employer is legally responsible. Therefore, it is wise to complain, both to the individual supervisor and to the company itself.

II. Credit

Sex and marital status cannot be the *only* reason for lenders to deny credit to women. However, a lender can consider marital situation and support payments to determine whether you are a good credit risk.



Basically you have the right to credit *if* you are considered *credit worthy* on the basis of proper standards. You have the right to a *joint* or *separate* account if you are married, and the right to establish credit in your own name even if you have a joint account. You do not have the right to credit or a loan if you are not a good financial risk. You have the right to know why you were denied credit.

Federal Reporting Rules

In the past, people who were denied credit had to guess what was wrong. Now, under the Fair Credit Reporting Act [16 U.S.C. 1581 et seq.], a creditor or lender must tell you the name of the credit reporting agency who investigated you. If unfavorable information comes from another source — such as the grapevine — the creditor must tell you the nature of the information. [1681 (m)]. You have a right to challenge the information in the credit report and to request an investigation. [1681 (i)]. You have a right to see the contents of the report. [1681 (g)]. You cannot be denied credit based on certain types of outdated information. [1681 (o)].

Federal Protection Against Discrimination

The federal Equal Credit Opportunity Act and *Regulation B* [(12 CFR 202.001 *et seq.*)] prohibit discrimination in credit because of race, color, religion, national origin, sex, marital status and age. The Act says that a husband and wife have a right to apply for separate credit reporting. [15 U.S.C. 1691 (d)(c)]. If you have a

husband with a bad credit rating or who has too many debts, you may want to maintain separate credit. The only age discrimination permitted is that no one has to give credit to a minor (someone under 18).

In addition, the federal law prohibits discrimination in credit based on making complaints about credit transactions. Also, there can be no discrimination just because an applicant gets welfare. [15 U.S.C. §1691].

For joint accounts, creditors must find out whether both spouses are entitled to use the account. If both spouses use the account, the creditor must report credit in each person's name. This means that married women can establish their own credit simply by having joint accounts with their husbands.

Questions about your age, marital status, or sex are not prohibited by the Equal Credit Opportunity Act. For one thing, agencies may take your race or age into account to give elderly or disadvantaged persons favorable treatment. [15 U.S.C. 1691 (b)(4) and (c)(1) and (2)]. For another thing, it is legal for the agency to inquire about sex, age, or marital status to determine probable future income. [15 U.S.C. 1691 (b)].

The federal statute applies to *any creditor.* This term is defined as any person who *regularly* extends credit or any person acting in the creditor's interest. [15 U.S.C. 1691 (a)(e)]. That means that you have a right to equal credit from a bank, department store, grocery store, finance company, or drug store.

If you are denied credit based on one of the prohibited categories, you have a right to action by the Federal Trade Commission, Office of the Comptroller of the Currency, or other federal official. [*See*, e.g., 15 U.S.C. 1691 (c)].

State Protections Against Discrimination

The state fair credit law [A.S. 18.80.250] says that an *institutional* creditor cannot refuse credit or loans because of "sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color, or national origin." The state law is similar to the federal laws. The state also forbids creditors to deny credit to a spouse or to require both spouses to have a single account.

Relief

If you are denied your rights under state or federal law, first ask the creditor for all of the information you wish. Insist on correcting wrong information in your file. Complain to the agency regulating the creditor. You may then consider a suit in state or federal court. If you prevail in court, you can get your actual damages and attorney's fees and in some cases, punitive damages. You can also have the court order the creditor to extend credit.

If you believe the lender or creditor discriminated against you for improper reasons, you could file charges with the Alaska Human Rights Commission. You can also sue in state court.

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Criminal law is the area where the government prosecutes an offender. If you are the *victim* of a crime, you do not need an attorney; the government prosecutes the case. Even if you don't want to testify, the district attorney can subpoena you to testify against your will.

If you are *accused* of a crime, you need an attorney. You have the right to remain silent, and you have the right to court-appointed counsel as soon as an investigation focuses on you, if you cannot afford to hire your own counsel.

III. Criminal Law and Violence Against Women

Misdemeanors & Felonies

A *misdemeanor* is a crime punishable by a year or less in prison. A *felony* is a crime punishable by more than a year. Each type of crime can have fines. [AS 11.81.700]. Each crime within these broad categories has different punishments stated in the statutes. A judge can suspend jail time under certain circumstances.

State Criminal Laws About Sex

In the past, women and men who lived together without being married worried about their criminal liability. Starting in 1980, there is a new criminal code in Alaska. Now there are no crimes of *adultery, cohabitation,* or *fornication.* People who live together or have sexual intercourse without being married to each other probably are not violating the law.

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There are state laws against prostitution (which is a misdemeanor) and also strict laws making both *pimping* and forcing a person to prostitute herself felonies. [A.S. 11.66-100-130].

Crimes Concerning Child Custody

If a woman considers leaving home, a major concern is whether she can take the children with her. She has a total right to take her children with her to a safer place AS LONG AS her parental rights have never been lessened by a court. This means that it is NOT KIDNAPPING for a woman to take her children (natural or adopted) with her to a battered women's shelter or to a friend's home unless a court has officially given custody of those children to someone else.

It is also important to know that the police will not help a mother retrieve her children from the house if she has left them there. The police will not interfere with whoever has the children unless the court orders them to go and get the children from the father and deliver them to the mother. The court will not issue this kind of order unless it is convinced that the children are in immediate danger of being abused or neglected.

Every parent should know that interference with the custodial rights of another, even concerning your own children, may constitute a crime. (Check section XI, Divorce and Dissolution, and section IX, Parent and Child.)

Sexual Assault

Rape, or first-degree sexual assault, is a serious felony which can be committed in one of four ways: (1) when a man *penetrates* sexually without the consent of the victim; (2) when a man *attempts* to penetrate sexually another person, without consent, and causes serious injury; (3) when a man who is *16* or older *penetrates* sexually a person under *13* years of age; and (4) when a man, 18 years or older, *penetrates* a *child* (his own or another in his custody) who is under the age of 18. [AS 11.41.410].

In Alaska a husband cannot be prosecuted for first-degree sexual assault on his wife unless they were living apart or unless he injures her.

Rape is not the only type of sexual crime which can be committed against the unwilling victim. For example, it is sexual assault in the second degree if a person has sexual contact with someone who is disabled. Sexual assault in the second and third degrees have iess serious penalties than rape, but are still criminal. [AS 11.41.420 and AS 11.41.430]. Do not hesitate to report an assault just because the rape was incomplete or merely threatened.

In the past, sexual abuse cases were difficult for the victim as a witness. Attorneys often cross-examined the victim about her past conduct or clothing, particularly in cases where the defendant said the woman *consented.* Now there is a new statute specifically forbidding public, embarrassing cross-examination of a rape victim. The victim's sexual conduct of more than a year ago generally cannot be heard by a jury. [AS 11.45.045, A.R.E. 608].

Assault

Women are frequently victims of assault. There are several degrees of assault. [AS 11.41.200 to AS 11.41.250]. Basically any conduct which threatens, injures, or risks the physical safety of another is assault. There is no legal exception to assault for spouses: a husband can be prosecuted for assaulting his wife.

Now, any police officer who has reasonable cause to believe an assault occured in a domestic situation, even if it is a misdemeanor assault, can sign the complaint and institute the prosecution. The assault does not need to have occurred in his presence. [AS 12.25.030 (b)]. This change is important because many battered wives have been reluctant to sign a complaint against their husbands. Now the police have the authority to sign the complaint.

Coercion is a crime related to assault. [AS 11.41.530]. It is a crime to force someone to do something by threatening physical injury. If your husband makes you give him money by threatening your child's well-being, this action may be a felony.

Criminal Trespass

Many women wish to force husbands or boyfriends (or former spouses or boyfriends) out of their homes. In some cases, police can arrest these persons for criminal trespass.

There are two degrees of the crime of criminal trespass. The first, a serious misdemeanor, is committed by someone who unlawfully enters a dwelling or who unlawfully enters any other type of real property, intending to commit a crime. The second, a less serious misdemeanor, is committed by any *unlawful* entry. The big question is: what is an *unlawful* entry? The less connection the trespasser has with a home, the easier it is to charge him with being a trespasser.

Domestic Violence

A new law [1980 S.L.A. Ch. 139] protects victims of domestic violence. You need not be married to your assailant to use the new law. It allows a victim of domestic violence to obtain a restraining order, temporary child custody, and support if she has been threatened or assaulted by any member of her household or by an ex-husband.

Under the new law, you can go to court for a temporary restraining order (TRO) even without filing a lawsuit. [AS 9.55.660 (a)(b)]. The court system has the responsibility to prepare simple forms and instructions so you can get the TRO easily. [AS 9.55.620]. However, except for extreme emergencies [AS 9.55.610 (b)], the person who is the assaulter gets *at least 10 days notice* of a court hearing. This time limit means that an offender could do additional harm or leave town while you are waiting for the hearing.

A TRO could order the offender out of the family home and of course order him to stop doing acts of violence. [AS 9.55.600 (b)]. However, it is important to realize that a TRO is only as good as the offender's respect for a judge's order.

You can also contact the police or district attorney to press criminal charges. In this case, you

should be aware that the offender has a constitutional right to bail. For a minor assault, the judge might set a low bail, and the offender would be out of jail soon. The judge can order that the offender leave you alone or seek counseling as a condition of bail. But someone who violates the criminal law might violate a bail condition.

If the district attorney decides to prosecute, you can be forced to testify, even if you later change your mind. The district attorney may decide your case cannot be proven and decline to take it. If you feel strongly that your offender should be prosecuted, be firm. Write to your legislators and the governor; the state's attorneys are supposed to protect you.

When you face violence at your home, *call the police*. They are becoming more responsive to victims of domestic abuse. Sometimes they will *stand by* to stop potentially violent situations such as when a spouse ordered out of the home comes to pick up his possessions.

Compensation for Victims of Violent Crimes

For all people who are the victims of violent crimes, the state provides compensation of up to $25,000 an incident. The state also provides attorneys' fees for people seeking compensation. If you have been raped or assaulted, or otherwise been the victim of a violent crime, you can apply to the Violent Crimes Compensation Board. You can be compensated for financial losses only, and you must report the crime to the police within five days of its occurrence.

You *do not* qualify for compensation if you are a relative or a sexual partner of the person committing the crime. There is also an exception for persons who have *themselves* violated a criminal law. Another exception is for those who are the victims of motor vehicle accidents. Only if the motor vehicle is used as a dangerous weapon, and not simply in a negligent manner, can the victim collect from the state. [AS 18.67.810, et seq.]

Federal Criminal Law

This outline will not treat federal criminal law. It does not particularly affect women except for the Mann Act, [18 U.S.C. §§2421-2424]. This law prevents women from being brought over state lines for *immoral purposes.*

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IV. Inheritance

Inheritance rules are governed by your personal wishes as described in your will. If you make a correct will, you generally have the right to leave your property to anyone. If you or someone important to you dies without a will, state laws determine what happens to your property. The property left by a deceased person is called an estate. Funeral and administration expenses are paid out of the estate. If there is property left after the surviving family gets an allowance, and taxes and debts are paid, it goes to the people named in the will. [AS 13.16.010 *et seq.*].

Making Wills

You must follow certain formal requirements to make your will effective. Many lawyers or legal clinics prepare wills for you inexpensively. If you wish to do one yourself, you may find assistance in the Alaska Statutes. You will need to sign it, with witnesses, in front of a notary public. [AS 13.11.150]. You must be more than 18 to make a will that will be enforced by a court.

In general, you can do whatever you want with your property so long as it is not against the law or public policy. For example, a California case recently indicated a woman could not effectively order her dog killed as a condition of her will. You probably cannot tie up property with a lot of conditions.

An important matter in wills is administrative expenses. Where the wife knows about business and financial matters, she should be appointed as executrix of her husband's estate and as trustee of minor children. This way, she will not pay expenses to a stranger to perform these jobs. If she is unfamiliar with these areas, a trusted family friend should be appointed in the will to administer the estate. Then the friend can serve *without bond* which eliminates expenses.

Estate Planning

Federal laws do not state how a person can leave her property upon death; this is a matter of state law. But the federal government does influence wills through the tax laws. If you have enough money to worry about heavy federal estate taxes, you will want to consult experts for *estate planning* which often reduces the amount of money in the estate by gifts to the children and to the spouse during the person's lifetime. Another way to remove money from the taxable estate is to set up trust funds for children during your lifetime.

Life insurance is not part of the estate — nor is real property jointly owned by husband and wife. This property automatically goes to the surviving spouse on the other spouse's death.

What Happens Without a Will

Without a will, no one can inherit except spouses and blood relatives. This means that if you are living with someone and own property together, you will have to make specific provisions in a will in order for the property to go to that person on your death. Otherwise, for example, your interest in a house which you own with your boyfriend may become your parents' property

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upon your death.

People who are married (with or without children) need to pay special attention to state law about inheritance to see whether or not they need a will. If your spouse dies without a will, you are automatically entitled to all of his property if he leaves no parent or child. But, if your husband has parents living and no child, you get the first $50,000 plus one-half of the remainder. His parents get the other one-half. If he has children with you, you get $50,000 and one-half of the remainder. Your children get the other half. If he has children who are not yours, you get one-half of his estate; his children split the other half. Thus, state law limits the share a surviving spouse gets without a will. [AS 13.11.010, .015].

There is also a built-in protection in state law for a surviving spouse, whether or not her husband leaves a will. She may choose to take one-third of the estate rather than what is left her in the will, particularly if the husband intended to disinherit her. This one-third is calculated after the funeral and administration expenses and the homestead and family allowances described below. It also includes any property that the husband gave away in his lifetime or sold to someone else for less than its true value. [AS 13.11.070].

Alaska law also provides that the wife is entitled to a $12,000 homestead allowance and a $1,500 property allowance. [AS 13.11.125 and AS 13.11.130]. Even if the spouse decides to take her one-third share instead of the will or statutory portions, she still gets the homestead allowance.

For inheritance purposes, a spouse does *not* include someone who has been formally divorced. A divorced spouse is treated like a spouse who has died; but a spouse who is planning a divorce or who is separated is treated the same as one happily married. [AS 13.11.300].

Your Husband's Rights

A husband cannot be disinherited any more than a wife. Even if you make a will in your children's favor, the husband gets to choose to take one-third of the estate. He also gets a homestead and property allowance.

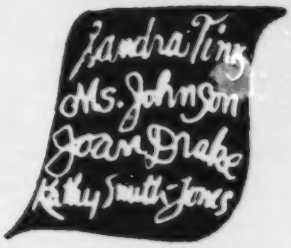
Other Concerns

Many people have questions about how to appoint a guardian for their child in the event of their death. You can certainly leave a will in which you designate a person to care for your child. You can set up a trust fund for a family friend to administer. However, no court or document can force an individual to undertake obligations he or she rejects. Therefore, most agreements about children must be voluntary and personal. Also, they must be in the child's best interest. If there is a dispute about these things after your death, your appointment of a person in your will, will certainly *help* her secure guardianship of the children.

Upon the husband's death, the wife may be entitled to his pension benefits or life insurance proceeds. These are largely voluntary benefit plans, which the husband may or may not participate in during his lifetime. For example, a union benefit plan may offer the option of a *survivor annuity*, but a worker need not take advantage of this benefit.

The law of names is changing. If you wish to change your name, you will be safest if you get court permission, either according to Civil Rule 84, or through a divorce decree. However, many people attempt to use their parents' names or unusual names without court action. These people have been more or less successful, depending partially on luck and partially on their persistence in dealing with government bureaucracies.

V. Names, Name Changes and Birth Certificates



What Is Your Name?

If you are single, you probably use your parents' last name. If you are married, you may or may not have taken your husband's last name. Some courts feel your name changes *automatically* upon marriage. *[Forbush v. Wallace*, 341 F.Supp. 217 (M.D. Ala. 1921), *aff'd.* 405 U.S. 970 (1972)]. Other courts feel you must *use* your husband's name to make it your own. *[Kruzel v. Podel*, 226 N.W. 2d 458 (Wisc. 1975)]. The Alaska Supreme Court has never decided whether your name changes automatically upon marriage.

(1) *Changing your name upon marriage.* Most people act as if their name changes upon marriage. If you choose to act this way, you should notify all agencies with which you deal, such as the Social Security Administration and the Department of Motor Vehicles.

According to the Social Security Administration booklet, "A Woman's Guide to Social Security" [SSA Publication 05-10127, March, 1980], whatever name you choose you should use all the time to make sure you get credit for all benefits. If you do change your name, you can easily fill out a Social Security form for a change of name. You have to show documents proving identity under both your old and new name, for example, a birth certificate and a marriage license. The Internal Revenue Service of the federal government uses your name from Social Security records. Be certain your names for these two agencies match so you will get prompt tax refunds.

(2) *Keeping your maiden name.* If you choose to continue to use your parents' name, you will not have to take any steps to notify agencies. If you have difficulty trying to get documents as a married person using your own name, you should deal with the agencies involved first: a lawsuit over your name can be expensive. Furthermore, if you end up having to start a lawsuit over your name, you will be charting uncertain ground in Alaska.

The Social Security Administration, according to reports from women and government publications, should not give you trouble with using your own name as a married person. The Social Security Administration is concerned only that social security contributions be credited to the right employee.

The Alaska State Department of Public

Safety, Division of Motor Vehicles, does not require a woman to change her name on a driver's license upon becoming married. [Letter of Robert Rowan, Director, August 27, 1980].

The United States passport office will generally issue you a passport in your maiden name showing you as *married* if you provide documents (such as tax forms) indicating you have officially used your maiden name since your marriage. [22 C.F.R. 51.24].

The IRS and the state Department of Revenue should issue a refund check in the name under which you file, whether you file jointly or separately. However, be sure your tax name matches your name on Social Security records.

Name Change Procedures

The Alaska Supreme Court, in Civil Rule 84, has set out a formal procedure for any person to change her name. It is not clear if this rule cancels out the common law rule that a person could change her name at will, so long as she did not intend to defraud anyone.

If you follow the procedures set out in Rule 84, you can choose any name. You must file a Petition for Change of Name in Superior Court and pay a $50 filing fee. You must publish the Petition for Change of Name in the newspaper designated by the court. These requirements can make a simple procedure quite expensive. After a certain period of time, the court rules that your name is changed.

You do not have to go through this procedure if you are getting a divorce. The judge can change your name as part of the divorce decree without a separate proceeding. You may want to take your maiden name or you may wish to take the name of a former husband.

Rule 84 does not clearly apply to children. If you wish to change the name of your child, other than as part of an adoption proceeding, you probably should have consent of both parents. To change the name of a minor without both parents' consent, you should certainly consult a legal advisor. [See, *generally*, "Rights & Remedies of Parents Inter Se With Respect To The Names of Their Children," 53 A.L.R. 2d 914].

Naming a Child

There is no requirement in Alaska that a child have any particular name. There is a requirement that birth certificates be filed, both for children born in a hospital and for those born distant from metropolitan centers. The birth certificate states the mother's name. If the mother was married at the time of the baby's birth, the birth certificate will also carry her husband's name as the name of the baby's father, unless a court (in a paternity suit) has decided that a different person was the father. [AS 18.50.160 and AS 18.50.180].

If the mother was not married at the time of the baby's birth, the father's name can be left blank on the birth certificate. If the mother and father, though unmarried, both request the father to be listed, the Registrar must do this. A woman can leave the *father* slot blank. If a later paternity action establishes the father, the Registrar can add or change the name. [AS 18.50.160].

A person may be committed against his or her will by family or friends with a court order because of a mental or alcohol problem. Commitment means the person stays in an approved health facility for treatment. Involuntary commitment means the person is forced to stay, even if he or she wants to leave.

People who consult mental health personnel should be aware that their consultation may not be confidential.

VI. Involuntary Commitment

Mental Commitments

An interested person (such as a friend, parent, or spouse) may apply to the state superior court to commit another person against his or her will. The application must be supported by a doctor's letter stating that the person is (A) mentally ill *and*, (B) because of the illness, is either likely to injure self or others or is in need of care or treatment in a hospital. Thus, there can be no commitment without certified mental illness. Being retarded, handicapped, unpleasant, or dangerous is not enough without mental illness. [AS 47.30.020 and 47.30.070].

If the patient fights the commitment, she has the right to an appointed attorney [AS 47.30.070], and to be seen by a doctor of her choice. If the patient cannot afford this, the court will provide counsel.

The main thing to remember about involuntary commitment is that it is not to be undertaken lightly. It is too serious a process to begin if there is no convincing proof that the person is mentally ill. If you succeed in committing a relative or spouse to a mental facility, you may have to reimburse the state for the care. [AS 47.30.270].

Emergencies

Under special emergency situations before a doctor sees the person, a police officer may take the person to the mental hospital. [AS 47.30.030]. An interested person or police officer may apply to the court for the patient's immediate hospitalization. After 48 hours the hospital must make a determination that the person is mentally ill or let them go. The hospital can keep a person at most for 30 days (or 35 days with a special extension). [AS 47.30.050].

For commitments longer than 30 days, the court must commit the person or let her go.

Alcoholism

Under the new Uniform Alcoholism and Intoxication Treatment Act, people suffering from alcohol problems have the right to treatment. As long as the person commits no crime, drunkenness alone is not a crime. [AS 47.37.010, *et seq.*, *Peter v. State*, 531 P.2d 1263 (Ak. 1973)].

Of course, an alcohol treatment center will accept any person who comes voluntarily. Also, if you are the spouse or friend of a person who has an alcohol problem, you can bring her to a center while she is drunk. [AS 47.37.170]. When sober, the staff will encourage her to stay and accept treatment. However, unless formal commitment procedures are begun, she must be released when sober. [AS 47.37.170].

A person may be involuntarily committed under an emergency situation if she is drunk and threatens or attempts physical harm, or if there is a health danger necessitating emergency treatment. [AS 47.37.180(a)]. You should bring the person (police assistance is encouraged) to a public facility for the treatment of alcohol. The person may be detained up to 48 hours for emergency treatment. [AS 47.37.180(d)].

You can also file a petition for the involuntary commitment of an alcoholic spouse or relative. [AS 47.30.190]. You must demonstrate that the person (1) is an alcoholic and (2) either threatens or attempts physical harm or is incapacitated by alcohol. This petition must be supported by a physician's statement. After the petition is filed, the court can hold a hearing to see if commitment is appropriate. The patient has the right to contest the charges, to be represented by counsel and, in particular, to request that the charges be heard before a *jury* of six adult residents of the area. [AS 47.37.190]. If the court rules against the patient, she may be detained for up to 30 days. At that time, there will be an automatic discharge unless there is a court order for an additional 60 days. [AS 47.37.200(c)].

The state may seek repayment for the cost of treatment of alcoholics from those required by law to support the person. [AS 47.30.270, 47.37.240].

Privileges Concerning Treatment

If you discuss personal problems with a doctor or psychotherapist these matters are generally *privileged* or *private*. The doctor cannot reveal them to another person.

The *privilege* may not apply when you consult mental health people. For one thing, if you see a counselor who is *not* an M.D. or a licensed psychotherapist (usually a Ph.D) that counselor's testimony can be forced. That means you may not have a *privilege* if your counselor is a social worker and not a doctor. For another thing, you do not have a *privilege* with a mental health counselor if your mental state is disputed in a court proceeding, such as in a criminal case or perhaps in a child custody matter. [See A.R.E. 504]. Therefore, be careful when consulting people about personal problems.

VII. Adoption

Adoption is a legal procedure by which a person takes another person as his or her *child* for purposes of support and inheritance, as well as for emotional reasons.

When you adopt a child, you have to support her just as a natural child. If your husband adopts your natural child, he would have the right to seek custody of her if you get divorced. He would also have to pay child support if you received custody.

The main advantage of adoption is inheritance. You may have a foster child living in your home whom you treat as your own. But if you die in an accident, Social Security or workers' compensation benefits may not be immediately available to the child. Adoption protects children by giving them inheritance rights.

In Alaska, the court has recognized *cultural adoption* — particularly in Native cultures. A family may take and care for an unrelated child and where certain tests are met, a court may decide the child has been *culturally adopted* and can inherit from the people with whom she lived. *[Calista Corporation v. Mann,* 564 P.2d 63, (Ak. 1977)]. However, this is very limited. You should not assume that a child will inherit from you just because she lives with you. You can, of course, leave a will naming any one as your beneficiary, but this would not bind Social Security or other employment death benefits.

The problem of *how* to adopt is legal; the law will not find you a child to adopt. For that, you must go to religious or government agencies, hospitals, or private persons. Adoption is not limited to children: an older woman living with a younger woman might want to adopt her friend in order to provide for her inheritance. [AS 20.15.010]. Single parents, stepparents, grandparents, or strangers may adopt. [AS 20.15.020].

Adoption Procedure

If you want to adopt, it is a relatively simple procedure in probate court. Contact a legal advisor or the clerk of the

Superior Court nearest you. If there is a problem getting to the court center, you can proceed by mail and by taking oral statements under oath. [See *Adoption of IJW*, 565 P.2d 842 (Ak. 1977)].

If you adopt a minor (a child under the age of 18) in Alaska, you must obtain the consent of the *mother* or legal guardian. If the child is more than 10 years old, or has a spouse, the child or *spouse* must consent, too. *Consent* usually means that the person freely agreed in writing with the legal action.

A difficult new area is the federal Indian Child Welfare Act [29 U.S.C. 1901]. Non-Native people wishing to adopt children who are native United States citizens should consult a legal advisor. There are certain limits now on this type of adoption even if the natural parents consent.

Another problem area is obtaining consent of the father. If an unwed father has formally made a child *legitimate*, or if the child's father was married to the mother at any time at or after conception, the father must also consent. [AS 20.15.040].

There is an exception to the consent rules. If a person has failed to support or communicate meaningfully with the child for a period of time (usually one year), that person's consent is not necessary. But even in such cases where the parent need not consent because of past conduct, that parent usually must be *notified* of the adoption proceedings. [AS 20.15.050].

A person wishing to adopt must file a petition in the Superior Court alleging particular items, such as the birth date of the adoptee. A lawyer, and in many cases, a paralegal assistant, can help you fill out these forms properly. [See AS 20.15.080].

When you file the petition, you must give notice to the state Department of Health and Social Services. [AS 20.15.100]. In most cases, this agency will investigate whether the adoptive parents will be good for the child. If a stepparent is adopting a stepchild, the Health and Social Services Department will NOT investigate. [AS 20.15.100].

Final Court Decree

A recent Alaska Supreme Court case said that natural parents can challenge an adoption up until the date of the final court decree. The adoption is NOT final until that last decree is made. [In re Rita T., 1981].

Rights of the Natural Father

One problem in adoptions is the right of the natural father, even when he has not legitimized the child or paid child support. The United States Supreme Court [*Stanley v. Illinois*, 405 U.S. 645 (1972)] has said that natural fathers, even if they do not fulfill parental duties, have some rights before their children are adopted. If at all possible, a father has the right to notice of the proceedings. If you cannot find him, you must sign an affidavit telling the court that it was impossible to locate him. If the father is poor, or has another excuse for not supporting or visiting the child, his consent may still be required. Many fathers who do not care enough to support or write to their children become very upset when adoption is mentioned and they fight it.

Most childbearing decisions are private matters. They may be regulated by the state only if the state honors constitutional guarantees of privacy and self-determination. In general, the federal government will not regulate abortion or birth control, but leaves such regulation to the state. However, the federal government may indirectly influence methods of birth control by conditioning or eliminating federal funding.

VIII. Childbearing Decisions

Neither state nor federal constitutional guarantees protect you from privately imposed restrictions. A private hospital can prohibit abortions if it does not receive any federal funding. A private doctor may refuse to prescribe one or more different types of birth control.

Birth Control

The state of Alaska does not regulate birth control except to require that only licensed physicians practice medicine. Fewer than 10 years ago, in some states, dispensing certain types of birth control was a criminal activity. But in Alaska, any licensed physician may prescribe whatever methods he or she believes are medically advisable. Any pharmacist may sell non-prescription birth control materials such as condoms or vaginal foam.

The only Alaska law concerning birth control is that the state Department of Health and Social Services is responsible for preparing information about planned parenthood for public distribution. [AS 18.05.035].

There is no law in Alaska about consent for birth control purposes. Presumably, a minor does not need her parents' consent, nor does a wife need her husband's consent. As far as the government is concerned, you are free to seek information, advice, and products concerning birth control, whatever your age or marital status.

Abortion

In Alaska, abortion is legal only if it is performed by a licensed physician or surgeon in an approved hospital or clinic.

An unmarried woman under 18 must have the consent of her parent or guardian. Further, the woman must be *domiciled* in the state of Alaska or physically present in Alaska for 30 days prior to the abortion. A violation of this section is a criminal offense. A violator faces a fine of $1,000 and up to five years imprisonment. [AS 18.60.010].

This law may be unconstitutional. A 1976 opinion of Alaska's Attorney General, following United States Supreme Court cases, said that the requirement of parents' consent was definitely unconstitutional, and that the residency requirement was "subject to constitutional challenge." [Op. Atty. General, October 21, 1976, p. 4]. The legislature has kept the law on the books anyway, but moved it out of the criminal section (still leaving the criminal penalties). However, an assistant attorney general stated that the law was not often enforced. [Conversation with Pat Kennedy, 11-4-80]. If a hospital or doctor tries to use this law to deny you an abortion, you should consult a legal advisor.

Sterilization

Any woman may seek sterilization through a hysterectomy, tubal ligation, or other procedure from her physician or clinic.

There is no state law regulating these procedures. However, some doctors or hospitals may be reluctant to sterilize a young woman or one who has no children.

The United States Supreme Court has held that a person in most circumstances cannot be sterilized against her will. [See e.g., *Skinner v. Oklahoma*, 315 U.S. 535 (1960)]. However, the Alaska Supreme Court has stated that in limited circumstances Alaska courts can consider requests from a guardian to sterilize a legally *incompetent* person. [In re: C.D.M. (Op. 2326: 4/24/81)].

Childbearing

Some women make decisions to have children; others have them by accident. To help yourself and your future children, try to make sure that each child you have is cared for and loved. Sometimes this means using birth control until you are able to raise a child properly. This can also mean seeking an abortion. It may mean carrying a baby to term even though you cannot raise it yourself. Increasing numbers of adoptive parents have been seeking babies. You may find assistance, if you proceed this way, from hospitals, social workers, churches, or charity groups.

Other women may decide to have and keep a baby even if they have financial difficulties. In this situation, they may be forced to rely on welfare. (See Section XII.) State and federal programs attempt to provide proper nutrition for pregnant women and new mothers. Anyone in financial trouble should seek aid when she learns she is pregnant.

Physicians who examine pregnant women must give blood tests to see if they have syphyllis [AS 18.15.150 and 18.15.160] and, if so, to cure it as soon as possible so that the unborn child is not damaged.

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IX. Parent and Child

Every person under the age of 18 is considered a minor in the state of Alaska. Upon your 18th birthday, you reach the age of majority. [AS 25.20.010].

The age of 18 is important for civil and criminal liability. Until you are 18, you will normally be treated as a juvenile offender (rather than a *criminal*), and you are not legally responsible for your debts.

However, just because you stop being a minor at 18 does not mean the state cannot impose other age restrictions. For example, it can prohibit people under a certain age from drinking or it can require that state senators, school teachers, or beauticians be a certain age. On the other hand, state and federal laws [AS 18.80 and 29 U.S.C. §621, *et seq.]* prohibit job discrimination, with some exceptions, on the basis of age, if you have reached majority.

Buying and Renting Property With Children

Parents of small children often learn that children are not welcome in certain apartments. The landowner's refusal to rent to parents is legal.

The real property laws allow discrimination on the basis of *parenthood*. [AS 18.80.240]. The statute on rental and sale of real property states that *single* or *married couple* housing (eliminating children) is permissible.

Child Custody

If there is a court order placing your children in the custody of another person, you cannot take the children away without violating a criminal law.

However, if your parental rights have never been the subject of a court order, you have 100 percent rights to your *own* children (not stepchildren, unless adopted). If your husband is an alcoholic or a batterer, and you want to leave him, you can take your own children with you; it is NOT KIDNAPPING. (See section XI, Divorce and Dissolution and Section III, Violence Against Women.)

Child Support

Parents have an obligation to provide room, board, and medical assistance for their children. In addition, if there is a court order directing a parent to pay a particular amount of support for a minor child, they can be held in contempt of court (and sometimes jailed) for not paying.

Mothers who have a court order for support of their children after paternity proceedings know how difficult it is to find an attorney to help them collect money owed. To help remedy this problem, the State of Alaska has created a Child Support Enforcement Agency which can collect child support for the children's guardians. [AS 47.23 *et seq.*]. The agency is also authorized to go to court to *get* an order for support if you and your husband are separated, but there is no court order, and your husband is not paying support. [AS 47.23.045]. Besides helping you get a court order, the state can force *assignment* of wages for the minor's support. [AS 47.23.070].

Everybody may use the Child Support Enforcement Agency; however, if you use state services and have money, you may be required to pay back the state for collection costs and legal assistance. [AS 47.23.100].

Parental Responsibility and Other People

You could be civilly liable for accidents caused by your child if you did not supervise the child properly. For example, suppose your minor child drove a snowmobile into someone's fence. You might have to repair the fence if you did not supervise the child. Evidence of your negligence might be that neighbors had complained before about your child's reckless driving, but you still let the child use the snowmobile.

On the other hand, if you tried to supervise your child properly but she purposely destroys real or personal property of another, your liability is limited to $2,000 plus court costs. [AS 34.50.020].

Parental Responsibility and the State

Parents can raise their children without interference from the state if certain conditions are met.

- *Support.* You must provide financial support for each child, natural or adopted, until the child is 18. If you are financially able to support the child and refuse to do so, you could be prosecuted; however, the criminal penalties are rarely used. [AS 11.51.120].
- *Medical care.* You must provide medical care for your children until they are 18. If you belong to a recognized church which treats sickness through prayer, rather than by medicine, the court may order the state not to interfere. [AS 47.10.085].
- *Education.* Every child under 16 must attend school. Parents have a right to send children to a religious school or to keep them at home to study, as long as the program is approved by the state. [AS 14.30.010].
- *Discipline.* You can physically punish your child, but not so severely that the child suffers physical harm. If your child is placed in danger, the state, through social welfare workers and attorneys, can take the child. [AS 47.10.010, *et seq.*]. However, just

because the state interferes does not mean you lose all rights to the child.

If the state seeks to limit your parental rights, a court must hear the case. You should ask the court to give you an attorney if you cannot pay. The child has a right to a court-appointed guardian. [AS 47.10.050]. All hearings are private and the child's name is not used publicly. [AS 47.10.070].

State Interference

(1) *Children in need of aid.*

If state officials go to court and the court decides a child is "in need of aid," the state can take legal and physical custody of the child for up to two years in most cases. [AS 47.10.080(c)].

An example of this process, called *adjudication,* occurs when a father or uncle sexually abuses a child. If the mother refuses to leave the abuser, the state could take physical custody after court proceedings or the adjudication. The state may then place the child in a foster or group home. The mother would still get to visit the child and could exercise her parental rights. The mother, for example, could refuse to consent to the child's marriage. [AS 47.10.084(c)].

The adjudication is a *temporary* limitation of parental rights. When the situation improves, the court can review the situation and cancel state custody. [AS 47.10.080(c)]. Also, the state interference can be *minor.* Sometimes the state will take *legal* custody of a child but leave the child at home with the parents on the condition that the parents get counseling. [AS 47.10.080(c)(2)]. Sometimes the state takes legal custody so it can help the child get medical or other benefits which the parents can't provide.

(2) *Terminations.*

In rare cases where there is continuous harm to a child the state may try to *terminate* or end a parent's rights in court. [AS 47.10.080(c)(3); 47.17.130]. The parent and child then have rights to legal help. Termination is usually final. The parent cannot, after termination, exercise any control over the child. There are no visitation rights.

The state cannot seek termination until it tries other ways to solve the problem. [AS 47.17.030(d)]. The main purpose of termination is to allow the child to be adopted.

A recent Alaska Supreme Court case held that a mother whose parental rights were terminated because of physical abuse could still challenge her child's adoption after termination and before the final court decree of adoption. [In re Rita T., 1981].

Reporting Child Abuse

If you see a child being harmed, do not hesitate to report it to the police or social welfare agencies. The Department of Health and Social Services investigates all reports of child abuse. These reports are confidential. [AS 47.17.040]. Just because you report a situation does not mean the state will automatically interfere.

Under emergency situations involving serious abuse or neglect, the state can keep a child for up to 48 hours without a hearing. [AS 47.10.142].

Social workers, doctors, teachers, nurses, parole officers, and principals are required *by law* to report suspected cases of child abuse. [AS 47.17.020]. People cannot be sued for making these reports.

even if they turn out to be wrong. [AS 47.17.050].

Indian Children

The federal government has a new law which limits the state's interference in cases involving Indian children. [29 U.S.C. 1901 *et seq.]*. Under this federal law, all Alaska Natives, including Aleuts and Eskimos, are considered *Indians*. The law makes it harder for the state to take custody of these children. There are some constitutional problems and some uncertainties with this law. If it affects you, try to consult a legal advisor.

Illegitimate Children

A child is *illegitimate* if the parents are unmarried at the time of birth. But a child would be *legitimized* if the parents got married sometime after the birth or if the father admits his paternity *in writing*. Written admission would be a useful technique for people who do not wish to get married, but who want children together. If a father makes a formal admission, the child will have fewer problems with inheritance of the father's property and other benefits. Also, a child can be legitimized by a court in a paternity action.

Any court judgment or written admission concerning the child's paternity should be deposited with the Bureau of Vital Statistics. The registrar must make, upon request, a new birth certificate which shows the child as legitimate. [AS 25.20.050].

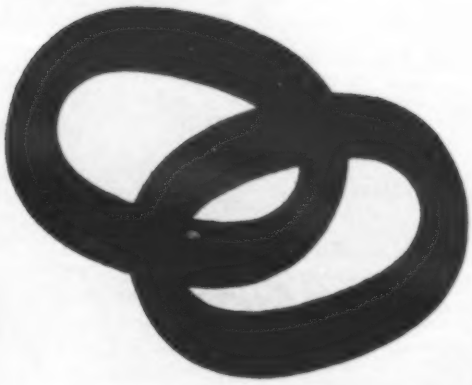
Even if the child is not formally legitimized, but is clearly the child of a particular father, the child may be entitled to some of his benefits. For example, the Alaska Supreme Court has said that a child born after the father's death and out of wedlock was entitled to the father's workmen's compensation benefits. *[S.L.W. v. Alaska Workmen's Compensation Board*, 490 P.2d 42, (Ak. 1971)]. The United States Supreme Court has also protected illegitimate children. The test as to whether a law may discriminate against illegitimate children is whether it bears an "evident and substantial relationship" to a governmental interest. *[Lalli v. Lalli*, 439 U.S. 259 (1978)].

If you have children and do not wish to marry their father, one of the best protections for them is a will by the father in favor of them. This will, if properly signed, will be good even if the father does not otherwise admit he is the father of the children. However, it will not help your children get things such as insurance proceeds which may go to legitimate children. Your mate should know what benefits he has and whether they are payable to illegitimate children at his death. It may be difficult to receive benefits from a deceased father if the children were illegitimate and not living with him nor being supported by him.

Marriage is a legal state. To enter into it, you must observe certain formal requirements. Once married, you have rights and duties defined by the law.

At the present time, the law about marriage is changing. Some courts outside of Alaska have given non-married partners rights and duties similar to those of traditionally married partners. The Alaska Supreme Court has not decided whether a court can divide property for unmarried partners as courts do in divorces.

X. Marriage and Marriage-Type Partnerships



Traditional Marriage

There is no *common law marriage* in Alaska. Officially, the law recognizes only those who are married as the statutes require.

(1) *Age requirements.* Generally, anyone 18 or older may get married. Marriage to more than one person is forbidden, as are marriages among close relatives. [AS 25.05.011 and 25.05.021]. There are some exceptions to the age requirement. If a person is 16, but under 18, she may marry with the written consent of her parents or guardian. If she is more than 14, but under 18, she may marry by obtaining a court order that states it is in her best interest. [AS 25.05.171]. There is no difference in the age requirement for women and men.

(2) *Annulment.* A marriage may be *voided* or *annulled* if the

people who are married were not able to give consent because of age or mental problems. The marriage may also be voided or annulled if obtained by force or fraud or if either party *fails to consummate* the marriage. [AS 25.05.031].

(3) *Formalities.*

In order to be legally married, you must apply for a marriage license from the state. This generally takes at least three days and you can usually do it at a courthouse. In some remote areas you may have to do it through the local government or the post office. [AS 25.05.091].

The law requires a blood test for venereal disease of all who apply for marriage licenses. [AS 25.05.131-151]. This requirement is to protect any children from inheriting serious diseases. If you live in a remote area, you will have to make arrangements to get to a clinic for the blood test, unless you have been granted a special waiver because of geographical problems. If so, you still have to get the test eventually. [AS 25.05.181]. You can get the blood test waived if you have religious objections to blood being drawn. [AS 25.05.181 (a) (3)].

Once you have a marriage license you may wish to have your marriage solemnized by a religious official, justice of the peace, or judge. The only legal requirement is that you "assent or declare in the presence of each other and the person solemnizing the marriage and in the presence of at least two competent witnesses that you take each other to be husband and wife." [AS 25.05.301]. Other than that, you are free to have whatever ceremony you wish.

Pre-Marital Contracts

Although the state law declares that marriage is a contract, there have been few cases in Alaska dealing with contract rights of married people. More people wish to draw up pre-marital contracts.

In order to be valid, a contract should be clear, state clear property claims, and involve promises on both sides. If you wish to cancel or amend the contract, you should do so in writing. [See generally 2 Lindley Separation Agreements and Ante-Nuptial Contracts §90 (1979)].

Courts will not usually enforce contracts concerning solely personal duties — nor would you want an expensive lawsuit over who should do the dishes. Courts will enforce financial agreements, including agreements to waive claims to the spouse's estate or to convey property.

Most pre-nuptial agreements concerning large amounts of property require legal help and knowledge of tax laws.

Marital Property

The State of Alaska has passed statutes about the property rights of married people. In England, at common law, a woman's property was often controlled by her husband. She could not sue in her own name or collect her own debts. A woman could not be prosecuted for committing a crime because she was considered her husband's responsibility.

(1) *Married Women's Property Rights.*

Now, under Alaska's version of the *Married Woman's Property Acts*, the rights of spouses are

fairly clear. Each spouse is liable only for his or her own property. [AS 25.15.010]. For example, if your husband owns a boat in which you have no interest, and the boat runs into a dock and destroys the dock, you will not have to pay just because the boat belongs to your husband. On the other hand, if you have joint property or property of your own, you are required to maintain this property yourself. You can convey or transfer property to your spouse. [AS 25.15.030].

You are not liable for the separate debts of your spouse. For example, if your husband is making payments on a college loan, you do not become obligated on these loans just because you are his wife. [AS 25.15.050]. Similarly, once married, you do not become liable to pay your husband's gambling debts or bar bills.

If only your husband's name is on a department store charge account, and he uses the charge account to buy items for you or your children, you may be liable for the charges if he cannot pay them. In other words, each person is responsible for his or her own debts and property. The critical question is not whose name is on the charge card, but for whom the expense is made.

If you maintain your own property, such as a checking account, your husband has no automatic control over it. [AS 25.15.060]. You have every right to separate your own property and prevent your husband from having access to it. For example, you could open a savings account in the name of one of your children, with yourself as trustee. Your husband has no legal control over this property.

(2) *Rights to Sue.*

In Alaska, you can sue your own husband for negligent wrong or *torts* which he has committed. [*Armstrong v. Armstrong*, 441 P.2d 699 (Ak. 1968)]. If your husband is injured by another, you can sue the wrongdoer, for *consortium* or loss of your husband's services. [*Schreiner v. Fruit*, 519 P.2d 462 (Ak. 1973)].

(3) *Types of Jointly-Held Property.*

A wife and husband who buy property together always own it as *tenants by the entirety.*

Only married people may own property as tenants by the entirety. The unique feature about tenancy by the entirety is the right of survivorship. When one owner dies, all of the property automatically goes to the surviving owner or spouse.

Tenancy in common is ownership with no right of survivorship. Each owner has her own individual interest in the property which can be sold freely during life or passed by will. Each tenant, or owner, is entitled to possession or use of the whole estate, but no co-tenant has the right to sole possession of any part. A tenant in common has a right to have a court separate the property.

Marriage-Type Partnerships

Since the recent California case [*Marvin v. Marvin*, 18 Cal. 34d 660 (Cal. 1976)], courts are beginning to recognize non-marital partnerships as valid and lawful living arrangements and to enforce property duties in such an arrangement.

The Alaska Supreme Court has considered several attempts by unmarried separated

partners to obtain property acquired during a non-marriage relationship. [*Hager v. Hager*, 533 P.2d 919 (Ak. 1976); *Hill v. Ames*, 606 P.2d 388 (Ak. 1980)]. It has not recently considered directly if unmarried partners can be compensated like spouses upon a separation.

Our Supreme Court has allowed *partners* in an unmarried relationship to recover based on contract law. *(Sugg, supra; Hill v. Ames, supra).* In such cases the spouse who wants a share of the property has the burden to show the exact amount to which she is entitled. In divorces, the court can make a fair distribution. So far in Alaska, an unmarried woman partner does not have the advantages of a married woman in obtaining a fair property settlement.

It may be possible in the future to obtain support for non-marital partnerships from Alaska's courts. People looking ahead to this may choose to write clear contracts with each other for property division and obligations, without specifying that sex is in any way related to the arrangement.

It cannot be emphasized enough that these types of actions are not clearcut in Alaska. At present, the only way to guarantee you will receive the rights of a married person is to marry legally.

You and your mate might also consider forming a formal partnership to do a particular business or maintain property under the Alaska Partnership Act. [AS 32.05.010 *et seq.*]. This may be a useful thing where you plan a joint business. You may wish to see an attorney to draw up a partnership agreement.

One problem of a partnership is that you could become liable for expenses or debts made by the other partner on behalf of the partnership. [See, e.g., 32.05.080, 35.05.090, 35.05.100].

One of the easiest ways to protect yourself if you are living together and buying property with an unmarried mate is to keep a certain amount of your property separate. You might want to have separate checking accounts and a specified amount in a third account for household expenses.

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XI. Divorce & Dissolution

Alaska has two separate divorce laws. One provides traditional grounds such as adultery, extreme cruelty, desertion, and the no-fault ground of *incompatibility* and requires that strict procedural rules be followed. [AS 09.55.110]. The other is *no-fault* entirely. It was designed to permit parties to seek a dissolution of their marriage without attorneys. In order to file under the dissolution section, both parties must agree to every issue and file together. One party may file separately if the whereabouts of the other spouse is unknown. [AS 9.55.231].

Residency

Alaska no longer has a residency requirement in order to file for divorce. The only requirement is that one spouse be living in Alaska with the intent to remain here when the complaint or petition is filed. [AS 09.55.150 and §5 Ch. 208 SLA 1975].

Actions During Divorce Proceedings

While a divorce is pending, the court may order:

(1) That one spouse pay an amount of money to allow the other to carry on the divorce action;

(2) that one spouse pay for support of the children; and

(3) that one spouse be free from the control of the other. [AS 9.55.200].

Mediation or arbitration may be ordered. The purpose of this is to have a third person help reach a settlement of the divorce. Either party may withdraw after one session, but all divorce proceedings are stopped for 30 days or until the court is told that mediation efforts have failed. [AS 09.55.115].

Property Division

When parties are divorced, the court will fairly divide the property *acquired during the marriage, no matter which spouse has title.* Alaska law on this point says that the court is not to look to the fault of either of the parties in deciding how the property is to be divided, but rather to look at the overall fairness. [AS 9.55.210(6)].

The Alaska Supreme Court has stated that the statute does not mean a *just* division is always an equal division. *[Hurn v. Hurn,* 541 P.2d 360 (Ak. 1975)]. Therefore, there is no guarantee that all the property will be divided in half, although in practice this is the way it is often done.

No clear standards exist to guide the courts in making this division. The Alaska Supreme Court has held that the factors to be considered are the ages of the parties, their earning abilities, the duration and conduct of each during the marriage, their stations in life, their circumstances and needs, their health and physical conditions, and their financial circumstances (including the time and manner of acquisition of property, its value, and its income producing capacity). *[Groff v. Groff,* 408 P.2d 360 (Ak. 1975)].

It is presently unclear what the Alaska court's position will be about including retirement or pension benefits as marital property. If you or your spouse have rights in a pension or retirement plan, vested or not, try to learn the value of that benefit, and discuss with an attorney whether this

should be included in making a division of the property.

Our Supreme Court has said the Supremacy Clause of the United States Constitution forbids division of military retirement pay in a divorce, but this case has been certified for review to the United States Supreme Court. *[Case v. Case*, 592 P.2d 1230 (Ak. 1979)]. Other states have held differently regarding military retirement pay. The issue of whether the other property can be divided while *taking into consideration* the military benefits is currently being briefed in the Alaska Supreme Court. *[Rehn v. Rehn*, No. 5070].

A retirement plan with a private employer would not be covered by the Supremacy Clause argument, so there is no statement by our court as to whether those are divisible. In many other jurisdictions, they are considered marital property.

Tax Consequences

In a divorce, if each spouse just receives his or her own separate property or if the jointly-owned property is divided equally, there is no tax consequence. That means you do not pay income tax even if the property you get has increased in value — unless you sell it.

If there is an unequal division of joint property, or one spouse transfers separate property to another, there *may* be a gain or a loss. *See an accountant, lawyer, or the IRS* about the tax consequences if you are considering this type of division. [IRS Publication 504, pp. 10 and 11].

Alimony

In the area of alimony, or financial support for one spouse from the other, Alaska law provides that either spouse may be ordered to provide support for the other. However, the courts seldom actually provide alimony for wives unless there is evidence of health problems or the woman is past middle age, unemployable, and the marriage was long term. Alaska courts almost never award alimony to a husband.

The courts do seem willing, in some cases, to award temporary alimony for several months or years which enables wives to obtain career training or complete their education. This is particularly true in cases where the wife has worked to put her husband through school, left her career or training to raise the children, or followed her husband in his career.

Case law provides that the award of alimony should be based on the same factors as those that are to be considered when making a division of the marital property.

One serious problem is the lack of a statutory provision permitting the award of spousal support during the divorce proceedings; temporary alimony is sometimes awarded anyway.

Tax Consequences

If alimony is *periodic* (usually a fixed amount for an indefinite period of time, such as until death or remarriage or for more than 10 years), the person paying it may deduct it on their federal taxes and the person receiving it must declare it as income. [IRS Publication 504 p. 7].

Attorney Fees

There is a statute in Alaska allowing the court to order that one spouse pay an amount of money to

enable the other to bring the divorce action. [AS 9.55.200]. Since the earning powers of the parties are considered in deciding whether or not to make such an award, the wife who does not earn enough to afford an attorney should qualify. [AS 25.20.030].

Child Support

In Alaska, both parents are considered to have an equal duty to support minor children [AS 25.20.030]; however, in practice, both parties may not have equal ability to meet this obligation. The court generally decides what it takes to provide for the children and makes the non-custodial parent pay one-half of that amount as child support. If either party is financially unable to pay that amount, the other may have to provide more than one-half.

Alaska provides that either party may move for an increase or decrease in the amount of child support at any time during minority of the child. [AS 9.55.220]. This procedure can be expensive and time consuming since the need for change must be fully proven in court. (See section IX, Parent and Child, for current enforcement procedures).

Recently, the Alaska Supreme Court required a father to provide support for sons in college even after they reached 19 years. The support statute for divorce cases is not specifically limited to minors. [*Hinchey v. Hinchey* (Op. 3528:3/1/81)].

Criminal Sanctions

It is a crime for any person to fail to support his or her children, unless there is financial hardship. [AS 11.51.120]. This law is not used because it is easier for the state to get a court order for support in a civil action than to start a criminal proceeding. [Letter of Larry Weeks dated 10/80].

Tax Consequences

Child support is not deductible on federal income tax by the person paying it nor taxable to the person receiving it.

If you are unmarried and a child lives with you, you may be eligible for special tax treatment as head of household. If you provide more than one-half of the support for your child (even if he or she doesn't live with you), you may be able to claim the child as a dependent for tax purposes. [IRS Publication 504 pp. 2 and 3].

Child Custody

The Alaska Legislature has specifically stated that neither parent is entitled to preference in determining custody of a child. [AS 9.55.205]. The court must determine custody in accordance with the best interests of the child, considering all relevant factors, including:

1. the physical, emotional, mental, religious, and social needs of the child;
2. the capability and desire of each parent to meet these needs;
3. the child's preference;
4. the love and affection existing between the child and each parent;
5. the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity; and

6. the desire and ability of each parent to allow an open, loving and frequent relationship between the child and her other parent. [AS 9.55.205].

The Legislature has also stated that the court has the authority to appoint a *guardian ad litem* or an attorney to represent the interests of a minor child in custody proceedings. The court may then order that payment to such an attorney be made from the sale of joint property before any property settlement, or charge each parent a certain amount of the cost. [AS 9.55.205].

The court may change or modify a custody determination at any time during the minority of the child. [AS 9.55.205].

The concept of *joint custody* is popular with some parents although there are no Alaska Supreme Court cases or statutes defining it. In this type of custody, the parents share the physical and legal custody of the children. The children may alternate every other week or month with each parent. Decisions regarding education, religion, health, and discipline are made by both parents. This idea is relatively new and as yet not completely tested. The courts will probably not order this type of custody if the parents do not agree to it because it requires the parents to work together and is easier if the parents live close to one another.

In the past, it was sometimes possible for parents to steal or snatch a child from one state and run to another state to obtain a favorable custody decision. In an effort to avoid competition between courts of various states and to discourage stealing of children to obtain custody advantages, Alaska has adopted what is called the *Uniform Child Custody Jurisdiction Act*. [AS 24.30.010-910]. This Act states that Alaska will not accept jurisdiction of a child custody case unless (1) this is the home state of the child at the beginning of the case or, (2) had been the child's homestate within six months before the beginning of the case and the child was taken from the state by a person claiming his custody. Also, if another state has already accepted a case concerning the custody of the child, Alaska will not allow a second case without extraordinary reasons.

Criminal Sanctions for Interference With Custody

It is now a crime in the State of Alaska to interfere with the custody of children. There are two degrees of *custodial interference* [AS 11.41.320 and AS 11.41.330]. Custodial interference in the first degree involves taking a child from the lawful guardian and leaving the state. This offense is one of the less serious felonies, but it is still a serious crime. Second degree custodial interference is taking a child from the custody of another for a long period of time.

Therefore, if the state or your spouse has formal (legal) custody of your child, it is a crime for you to attempt to take the child from their custody without a court order.

Criminal Sanctions for Non-Visitation

It is a misdemeanor if the custodian of a child purposefully fails to permit visitation ordered by the court with *specific* times of visitation. [AS 11.51.1257].

XII. Public Assistance

The state and federal governments have many public assistance programs available through various agencies. Applicants must meet eligibility requirements for each program and are accorded basic rights under all programs.

Federal Benefits

The federal government provides many different types of assistance through various agencies such as the Social Security Administration, the Veterans' Administration and the Bureau of Indian Affairs. These benefits are too detailed to list here but the federal government provides good booklets on your public assistance rights under federal law. You can obtain these booklets and other information free by calling or writing the Federal Information Center, 701 "C" Street, Anchorage, AK 99501 (271-3560).

State Welfare Benefits

The state Division of Public Assistance has five assistance programs: Food Stamps, Aid to Families with Dependent Children (AFDC), Medicaid, General Relief (GR), and Adult Public Assistance (APA). Medical assistance under the General Relief Program is called General Relief Medical (GRM). Adult Public Assistance has three parts: Aid to the Blind (AB), Old Age Assistance (OAA), and Aid to the Permanently and Totally Disabled (AD or APD).

Most of these programs are referred to as *categorical* assistance programs since they provide assistance to only a limited category of people. Only Food Stamps and GR/GRM are available to nearly everyone based on their need.

The Division of Public Assistance (DPA) has five regional offices and 20 district offices throughout the state. Some of these offices are *decision making offices*: they take applications and make determinations about

eligibility within the office. Some are *non-decision making offices:* they take applications and forward information to the nearest decision office for a determination of eligibility. There is one exception to this rule; in emergency food stamp cases, non-decision making district offices must make a food stamp decision within three days. [7CFR 273.2 (i) (3) and Food Stamp Eligibility Manual, section 3100]. In rural areas, there are *fee agents* who are village residents helping people fill out forms and verifying all the necessary information. They forward the forms to the nearest decision office. *Fee agents* are not salaried employees, but are paid for each application they process.

Rights of Welfare Applicants and Recipients

You have the same basic rights under all welfare programs whether state or federal. Your rights include:

(1) to receive an application form when you ask for it;

(2) to file an application form the same day you receive it, with only your name, address, and signature on it;

(3) to have a face-to-face interview;

(4) to receive a written notice telling you if you are eligible (there are time limits for how soon these notices must get to you, which vary with programs);

(5) to have your benefits on the way within 30 days for most programs (emergency food stamps within 3 days);

(6) to receive fair and equal treatment regardless of age, sex, race, color, handicap, religious creed, national origin, or political belief;

(7) to be notified in advance of any changes in your benefits; and

(8) to request and have a fair hearing whenever the DPA takes an action on your case with which you do not agree, or if DPA fails to take action on your case.

Fair Hearings

Fair hearings are very informal proceedings where you have the opportunity to tell the welfare office why your benefits should be granted or reinstated. People who go through with fair hearings often win. You have the right to represent yourself or have someone else represent you at your fair hearing (a friend, neighbor, relative, or an attorney from Legal Services if you qualify). The hearing is tape-recorded and sent to Juneau where a Hearing Authority makes a decision as to whether or not you are right. Any time you are dissatisfied with an action on your case you should request a hearing (in writing) as soon as possible.

Individual Programs

Food Stamps

The Food Stamp Program provides low-income households with coupons which can be used to purchase food, some kinds of subsistence hunting and fishing gear, and seeds and plants used to grow food. They may also be used to purchase *meals on wheels* and

group meals for the elderly.

In order to be eligible for food stamps, a household must fall below specific income and resource limits. Income must fall below the official poverty line for Alaska which is set and updated annually by the federal government.

The amount of income the household may have and still be eligible depends on the number of people in the household. For precise eligibility information, check with the nearest public assistance office or read the pamphlet "How to Apply for and Use Food Stamps" (available at your local DPA office). [Title 7 CFR part 270-283; AS 47.25.975-990; State Food Stamp Eligibility Manual (available at DPA, Legal Services)].

AFDC

AFDC (Aid to Families with Dependent Children) is available to families with children under 18 where at least one of the natural or adoptive parents is no longer in the household or is disabled. These households must also be financially needy. AFDC is not available in Alaska to women who are pregnant and who have no other children. Households with a stepparent may be eligible for assistance for a child who is not the stepparent's. [Title 45 CFR Parts 205, 206, 220, 224, 231-235; AS 47.25.3.0-420; State AFDC Eligibility Manual].

Medicaid

If you are eligible for AFDC you automatically qualify for medical benefits through Medicaid for as long as you remain on the program and for four months after your assistance stops (if your eligibility ended because of an increase in earned income). You should receive Medicaid benefits (in the form of medical coupons) for the three months preceding the first month of your AFDC eligibility if you have unpaid medical bills from those months, and you would have been eligible for AFDC if you had applied in one of those months.

Medicaid eligible individuals can also receive coverage under GRM (see GR/GRM section) for specific items not covered by Medicaid, for example, abortions and prescription drugs. [Title 42 CFR 430-456, AS 47.07.010-080, State Medicaid Eligibility Manual].

WIN

Any AFDC recipient is eligible for services from WIN (Work Incentive Program) which is an employment service program administered by the State Department of Labor. If your children are all six years or older, you are required to work with WIN to find a job. As long as you have at least one child under six, your participation is optional. [Title 45 CFR 224.20; Title 29 CFR 56.20; State AFDC Eligibility Manual; State WIN Manual].

AFDC Benefits

In order to be eligible for AFDC, your net income after deductions must be lower than the need standard for your family size. Common allowable deductions are child care and transportation. To receive AFDC, you must have a limited income and limited personal or real property. Certain resources such as the home, family car, personal belongings, and income-producing property are not counted.

To get information on

how to figure your eligibility, contact the nearest public assistance office, or read the pamphlet "AFDC — A Program for Children" (available at DPA offices).

General Relief (GR)

The General Relief (GR) Program is 100 percent state funded. It is an emergency assistance program which is available to applicants only as a last resource when no other form of assistance is available to them. GR is usually a cash payment to a specified seller for one or more subsistence items such as shelter (rent), utilities, fuel, or clothing. You must apply for GR every month that an emergency exists. GR can be used for burial expenses, and in limited circumstances recent arrivals in Alaska can be provided a one-way ticket to their last place of residence in another state. In very few circumstances, cash payments can be made directly to the applicant.

A GR payment cannot be made to an applicant with an *open* AFDC, OAA, AB, or AD case. The maximum payment any eligible GR household can receive is $80 *a person*, or the amount of the need, whichever is less. To qualify for GR, applicants must fall below income and resource limits. [AS 47.25.120-300; State GR/GRM Eligibility Manual].

General Relief Medical (GRM)

General Relief Medical is part of the GR Program, and is also 100 percent state funded. It has the same general rules as GR (refer to that section for specific rules). The eligibility requirements are very similar to those for GR; however, in addition, there must be a specific *medical* need.

Generally, GRM provides payment for routine medical care, dental emergencies, transportation, prescription drugs, sterilization, diagnosis and treatment of pregnancy and venereal disease (if a minor). Abortions are also available, for whatever reason, through GRM. [AS 47.25.120-300; State GR/GRM Eligibility Manual].

Adult Public Assistance

Adult Public Assistance (APA) consists of three 100 percent state funded sub-programs: Old Age Assistance (OAA) for people 65 or older; Aid to the Blind (AB); and Aid to the Permanently and Totally Disabled (AD) for people who are physically or mentally disabled.

To qualify for assistance under any of the three sub-programs, an applicant household must fall below income and resource limitations. More information about eligibility should be obtained from the Division of Public Assistance. [AS 47.25.430-970].

Other Benefits

The State of Alaska has numerous benefits for its residents such as tax rebate programs, alternative energy loans, business loans, longevity bonuses, and permanent fund dividends. Some of these programs are under attack in the courts. For up-to-date information on all of your benefits, write to the Governor's Office in Anchorage, Fairbanks, or Juneau.

Glossary

Definitions of legal words.

alimony Money or other financial support awarded to a spouse in a divorce action for his or her separate support. It is usually awarded only where one spouse has been dependent on the other or has less earning power than the other. It is not child support because it is for the spouse, not the children.

annulment A court *annuls* a marriage or declares it nonexistent or void on rare occasions where fraud, bigamy, impotence, or another serious problem has occurred. It means that the marriage never occurred legally. Do not confuse *legal* annulment with a *church* annulment.

assailant The person who commits a crime against the body of another. Rapists, wife batterers, murderers, and robbers are *assailants*.

assess To figure out a sum of money and to charge it to another.

assignment To award a debt or benefit to another person. For example, a husband who does not pay child support can be forced to *assign* his wages to the court for the children.

compensate To give one party money or other benefits to make up for a loss or problem.

competent Able to make decisions. The court may decide if a person is competent or incompetent. If someone is incompetent, the court may appoint a legal guardian.

consent Free and willing agreement.

consortium The services of a spouse. Services include household tasks one spouse performs for another including sexual services.

consummate Finalize. In sexual relationships, such as marriage or even rape, the term means to have sexual relations.

convey To give, sell or transfer to another person.

damages An award of money to the winning party in a lawsuit. *Actual damages* are your out-of-pocket expenses such as lost wages or hospital bills. Actual damages in some types of cases may include an award for psychological harm. *Punitive damages* are an award to punish the wrongful party for willfully improper action.

defraud To cheat or steal by false representations. A customer can defraud a restaurant if he or she eats a meal but has no money to pay for it.

disinherit To write someone out of a will who would normally inherit like a child or spouse. Even if you do this in your will, your spouse is entitled to a certain share of your property.

district attorney The attorney(s) employed by the state to prosecute people for state criminal offenses. He or she represents the state. A city government may also have attorneys assigned to prosecute city charges. These people function like district attorneys on a local level.

domicile The place where you live. It is the place which you intend to be your home.

estate The real and personal property left when someone dies.

executrix The person who does the business necessary to close an estate and distribute property upon someone's death. Executrix is the feminine form of executor.

felony A serious crime against state or federal law punishable by more than a year in jail.

guardian ad litem The person assigned by the court to represent the interests of a minor child or incompetent person in a legal proceeding.

harassment Bothering, annoying, or oppressing another person.

illegitimate Usually means *against the law.* An illegitimate child, however, is simply an old term for someone born to parents who were unmarried at the child's birth.

inherit To receive property by legal means from someone who has died.

institutional creditor A bank, department store, or other institution which extends credit, loans money, or permits charge accounts.

liable Responsible.

misdemeanor A crime against state or local law punishable by less than one year in jail.

negligence Carelessness or lack of care. A person is negligent if she fails to act reasonably or take reasonable precautions. In most areas it is not defined by the law books. It is often up to a judge or jury to say if a particular action was negligent under the circumstances.

offender The wrongdoer or criminal.

paternity Fatherhood.

petition A request to a court.

probate court The part of state court that handles estates, wills, adoptions, guardianships, and mental commitments.

prosecute To try to get a court to declare someone guilty of a crime. A district attorney *prosecutes* cases against persons thought to have committed violations of state criminal law.

punitive damages See "damages."

regulations Operating procedures of government agencies.

restraining order A court demand to someone to behave in a certain way and to stop violations of laws or court orders. A court can issue a restraining order preventing someone from visiting a separated spouse.

solemnize A voluntary religious or ceremonial procedure for marriage. People can get married legally in the court clerk's office, but you may also wish to have a judge or religious official conduct a complete ceremony.

statutes Laws passed by state or federal legislators. They are written down and kept in law libraries. The constitution is supreme over all statutes, and statutes have more authority than regulations.

survivor annuity A yearly award to the living spouse, child, or friend for his or her life. It is similar to life insurance.

suspend To stop temporarily or to postpone on certain conditions.

testify To give evidence under oath in a legal proceeding.

torts An historical term for civil wrongs, as distinct from crimes. A person or company commits a tort by acting unreasonably or by committing wrongful acts. It is a general term and does not refer to particular violations of contracts or other agreements. It is a difficult term to understand; lawyers and judges are not always certain what a tort is.

trust fund A collection of money and other property set aside for a particular purpose, e.g., a child's education. It is set up by legal papers stating its purpose and is guarded or administered by a trustee who acts for the beneficiary (person who is to benefit from it). The trustee can only do what the trust documents say. Trust funds are regulated by many state and federal laws.

trustee See trust fund.

waive To give up.

Resource Directory

If you have questions or need help, you can call any of these agencies.

General

Alaska Human Rights Commission
431 W. 7th Avenue, Suite 105
Anchorage, AK 99501
276-7474

Alaska Human Rights Commission
Goldstein Building/Pouch AH
Juneau, AK 99811
465-3560

Alaska Human Rights Commission
675 7th Avenue, Stn. H
Fairbanks, AK 99701
452-1584

Anchorage Equal Rights Commission
620 E. 10th Avenue, Suite 204
Anchorage, AK 99501

State Department of Health and Social Services
338 Denali Street, Suite 214
Anchorage, AK 99501
274-5686

Alaska Commission on the Status of Women
338 Denali Street, Suite 850
Anchorage, AK 99501
276-3003

Fairbanks Human Rights Commission
315 Barnette Street
Fairbanks, AK 99701
452-8889

Child Support Enforcement Agency
701 E. 9th Avenue
Anchorage, AK 99501
276-8148/276-3441

Women's Resource Centers

Alaska Women's Resource Center
204 E. 5th Avenue, Suite 224
Anchorage, AK 99501
276-0528

Bering Sea Women's Group
Box 1596
Nome, AK 99762
443-5444

Juneau Women's Resource Center
P.O. Box 1033
110 Seward Street, Rm. 6
Juneau, AK 99802
586-2977

Kenai-Soldotna Women's Resource Center
Mile 1, Spur Highway/Box 2464
Soldotna, AK 99669
262-9378 office/262-9376 crisis

Kodiak Women's Resource Center
Box 2122
Kodiak, AK 99615
486-6171 office/486-3625 - 24 hr.

South Peninsula Women's Services, Inc.
c/o Community Mental Health Center
Box 2328
Homer, AK 99603
235-7701

Tundra Women's Coalition
Box 1034/500 First Avenue
Bethel, AK 99559
543-3455 office/543-3456 crisis

Valley Women's Resource Center
General Delivery
Wasilla Business Park
Wasilla, AK 99687
376-4080

Office of the Governor

Office of the Governor
Pouch A/3rd Floor Capitol Bldg.
Juneau, AK 99811
465-3500

Office of the Governor
338 Denali Street
7th Floor, MacKay Bldg.
Anchorage, AK 99501
278-2502

Office of the Governor
675 7th Avenue
Fairbanks, AK 99701
452-1545

Office of the Governor
P.O. Box 25
Front Street & Stedman Avenue
Nome, AK 99762
443-2770

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Office of the Governor
P.O. Box 335
Old Eskimo Building, Rm. 212
Kotzebue, AK 99752
442-3611

Bureau of Indian Affairs

B.I.A.
P.O. Box 3-8000
Juneau, AK 99802
586-7177

B.I.A.
P.O. Box 1108
Nome, AK 99762
443-2284

B.I.A.
Box 347
Bethel, AK 99559
543-2726

B.I.A.
P.O. Box 120
Anchorage, AK 99510
271-4088

B.I.A.
Mt. Edgecumbe High School
Mt. Edgecumbe, AK 99835
966-2201

B.I.A.
101 12th Avenue/Box 16
Fairbanks, AK 99701
452-1951 ext. 222

Ombudsman

Ombudsman
Auk Tribe Building
525 Village Street/Pouch WO
Juneau, AK 99811
465-4970

Ombudsman Regional Representative
840 K Street, Suite 203
Anchorage, AK 99501
276-4011

Ombudsman Regional Representative
315 Barnette Street, Rm. 201
P.O. Box 74358
Fairbanks, AK 99707
452-4001

Employment Discrimination

Alaska Department of Labor
Division of Wage & Hour
3301 Eagle Street/Pouch 7-021
Anchorage, AK 99510
264-2435

Municipality Employee & Labor Relations
632 W. 6th Avenue/Pouch 6-650
Anchorage, AK 99502
264-4424

Public Assistance

State Division of Public Assistance
Pouch H-07
AK Office Bldg. Rm. 318
Juneau, AK 99811
465-3355

Coalition for Economic Justice/ Anchorage Welfare Rights Organization
204 E. 5th Avenue, Suite 201
Anchorage, AK 99501
276-7788

Division of Public Assistance
419 6th Street, Rm. 119
Juneau, AK 99801
465-3556

Division of Public Assistance
400 Gambell Street, Suite 101
Anchorage, AK 99501
274-6524

Division of Public Assistance
P.O. Box 365
Bethel, AK 99559
543-2686

Division of Public Assistance
675 7th Street, Section E
Fairbanks, AK 99701
452-1637

Division of Public Assistance
P.O. Box 41
Kotzebue, AK 99752
442-3451

Violence

Abused Women's Aid in Crises (AWAIC)
417 W. 8th Avenue
Anchorage, AK 99501
272-0100 crisis/279-9581 office

Alaska Women's Resource Center
204 E. 5th Avenue, Suite 224
Anchorage, AK 99501
276-0528

Male Awareness Project
642 Cordova
Anchorage, AK 99501
277-2345

McKinnel Emergency Lodge for Women
Salvation Army
1333 E. 9th Avenue
Anchorage, AK 99501
276-1609

Standing Together Against Rape (STAR)
111 E. 13th Avenue
P.O. Box 3356
Anchorage, AK 99510
276-RAPE/276-7279

Arctic Women in Crisis
P.O. Box 69
Barrow, AK 99723
852-4357/852-HELP

Tundra Women's Coalition
Box 1034/500 First Avenue
Bethel, AK 99559
543-3456 crisis/543-3455 office

Family Stabilization Project
P.O. Box 189
Dillingham, AK 99576
842-5257

Women in Crisis — Counseling & Assistance (WICCA)
302 Charles Street
Fairbanks, AK 99701
452-7273 crisis/452-2293 office

South Peninsula Women's Services, Inc.
c/o Community Mental Health Center
Box 2328
Homer, AK 99603
235-7701

AWARE
Aiding Women from Abuse & Rape Emergencies
614 Harris/P.O. Box 809
Juneau, AK 99802
586-1090 crisis/586-6623 office

Family Violence Coordinator
Division of Adult & Aging Services
Pouch H-01C
Juneau, AK 99811
465-3250

Juneau Women's Resource Center
110 Seward Street, Rm. 6
P.O. Box 1033
Juneau, AK 99802
586-2977

Men Emerging Now (MEN)
211 4th Street, Rm. 304
Juneau, AK 99801
586-3585

Women in Safe Homes
Box 6552
Ketchikan, AK 99901
225-9474 crisis

Kodiak Women's Resource Center
Box 2122
Kodiak, AK 99615
486-3625 — 24 hr.
486-6171 office

Kotzebue Women's Crisis Program
Human Services Complex
Box 38
Kotzebue, AK 99752
442-3969

Bering Sea Women's Group
Box 1596
Nome, AK 99762
443-5444

Sitkans Against Family Violence (SAFV)
Old Community College Bldg.
Box 1573
Sitka, AK 99835
747-6511 crisis/747-3370 office

Kenai-Soldotna Women's Resource & Crisis Center
Mile 1, Spur Highway/Box 2464
Soldotna, AK 99669
262-9376 crisis/262-9378 office

Valley Women's Resource Center
Wasilla Business Park
General Delivery
Wasilla, AK 99687
376-4080

Violent Crimes Compensation Board
Pouch N
Juneau, AK 99811
465-3040

Alaska Legal Services

Alaska Legal Services
615 H Street, Suite 100
Anchorage, AK 99501
272-9431

Alaska Legal Services
P.O. Box 309
Barrow, AK 99723
852-2311

Alaska Legal Services
P.O. Box 181
Dillingham, AK 99583
842-5653

Alaska Legal Services
763 7th Avenue
Fairbanks, AK 99701
456-5401

Alaska Legal Services
419 6th Street, Suite 322
Juneau, AK 99801
586-6425

Alaska Legal Services
301 NBA Building
Ketchikan, AK 99901
225-6420

Alaska Legal Services
P.O. Box 304
Kodiak, AK 99615
486-4178

Alaska Legal Services
P.O. Box 316
Kotzebue, AK 99752
442-3398

Alaska Legal Services
P.O. Box 40
Nome, AK 99762
443-2951

Alaska Legal Services
P.O. Box 103
Unalaska, AK 99685
581-1219

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Fairbanks
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